

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

SABRINA KENT,)	
)	
Plaintiff,)	
)	
v.)	CV422-134
)	
FRED WILLIAMS)	
HOMEBUILDERS, and)	
SHELL OIL CO.,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Plaintiff, appearing *pro se*, has submitted a complaint alleging that water pipes in her attic malfunctioned and flooded her home. Doc. 1. She seeks to proceed *in forma pauperis* (IFP). Doc. 2. After reviewing plaintiff's application, as plaintiff does not appear indigent, her motion for leave to proceed IFP should be **DENIED**. Doc. 2.

In her application, plaintiff discloses that she possesses \$950 in cash, or a checking/savings account. Doc. 2 at 2-3. This alone would normally preclude her ability to avoid the filing fee. She also claims that her monthly take-home pay or wages are \$1,050, which almost offsets her \$1,256 in regular monthly expenses. *See id.* at 1.

While a plaintiff need not be absolutely destitute in order to proceed IFP, *Adkins v. E.I. Dupont de Nemours*, 335 U.S. 331, 339 (1948), the fact that financing her own litigation may cause some difficulty is not sufficient to relieve a plaintiff of her obligation to pay his own way where it is possible to do so without undue hardship. *Thomas v. Secretary of Dep't of Veterans Affairs*, 358 F. App'x 115, 116 (11th Cir. 2009) (the Court has wide discretion in ruling on IFP application, and should grant the privilege "sparingly" in civil cases for damages). Two important points must be underscored. First, proceeding IFP is a privilege, not an entitlement. *See Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 198 (1993). Second, courts have discretion to afford litigants IFP status; it's not automatic. 28 U.S.C. § 1915(a)(1) (courts "may authorize the commencement" of IFP actions); *Denton v. Hernandez*, 504 U.S. 25, 31 (1992); *see also Marceaux v. Democratic Party*, 79 F. App'x 185, 186 (6th Cir. 2003) (no abuse of discretion when court determined plaintiff could afford to pay the filing fee without undue hardship because he has no room and board expenses, owns a car, and spends the \$250.00 earned each month selling plasma on completely discretionary items); *Lee v. McDonald's Corp.*, 231 F.3d 456, 458 (8th Cir.

2000) (the decision of whether to grant or deny IFP status under 28 U.S.C. § 1915 is discretionary). Given her disclosed assets, plaintiff is not indigent. Accordingly, her application to proceed *in forma pauperis* should be **DENIED**.¹ Doc. 2.

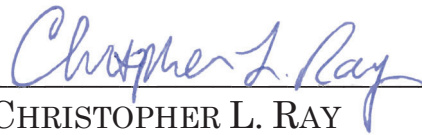
This R&R is submitted to the district judge assigned to this action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 72.3. Within 14 days of service, any party may file written objections to the R&R with the Court and serve a copy on all parties. The document should be captioned "Objections to Magistrate Judge's Report and Recommendations." Any request for additional time to file objections should be filed with the Clerk for consideration by the assigned district judge.

After the objections period has ended, the Clerk shall submit this R&R together with any objections to the assigned district judge. The district judge will review the magistrate judge's findings and

¹ To the extent that Plaintiff believes the Court has misconstrued her financial situation, her opportunity to object to this Report and Recommendation, discussed below, provides her an opportunity to clarify it. If she believes a more detailed presentation of her finances would support her qualification to proceed *in forma pauperis*, she may supplement her application during the objections period. The Clerk is **DIRECTED** to enclose a blank Form AO 239 (Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)) with the service copy of this Report and Recommendation for Plaintiff's convenience.

recommendations pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to timely file objections will result in the waiver of rights on appeal. 11th Cir. R. 3-1; see *Symonette v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Mitchell v. United States*, 612 F. App'x 542, 545 (11th Cir. 2015).

SO REPORTED AND RECOMMENDED, this 24th day of May, 2022.



CHRISTOPHER L. RAY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA